

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Brett Montana, an individual,

Plaintiff,

vs.

IMR Inc., a Washington corporation,

Defendant.

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ORDER OF DISMISSAL

Case No. 1:12-cv-091

Plaintiff filed a Notice of Voluntary Dismissal. Rule 41(a) of the Federal Rules of Civil Procedure provides for the voluntary dismissal of an action by a plaintiff. A plaintiff may seek to dismiss an action without a court order by filing: “(I) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A). However, if a defendant served either an answer or a motion for summary judgment and if no stipulation of dismissal exists, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). A court order granting voluntary dismissal is without prejudice “[u]nless the order states otherwise.” Id.

The Court **ADOPTS** Plaintiff’s notice (Docket No. 7) and **ORDERS** that the action be dismissed without prejudice and without costs pursuant to Rule 41(a)(1)(A)(I) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Dated this 29th day of April, 2013.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr.

United States Magistrate Judge